

Office of Chief Counsel
Internal Revenue Service

memorandum

CC:LM:FSH:HAR:TL-N-2944-99

JFLong

date: October 20, 2000

to: LMSB:FSH:Group 1123
Hartford, CT
Attn: David R. Berglund

from: Associate Area Counsel LMSB:FSH:HAR

subject: [REDACTED]

DISCLOSURE STATEMENT

This advice constitutes return information subject to I.R.C. § 6103. This advice contains confidential information subject to attorney-client and deliberative process privileges and if prepared in contemplation of litigation, subject to the attorney work product privilege. Accordingly, the Examination or Appeals recipient of this document may provide it only to those persons whose official tax administration duties with respect to this case require such disclosure. In no event may this document be provided to Examination, Appeals, or other persons beyond those specifically indicated in this statement. This advice may not be disclosed to taxpayers or their representatives.

This advice is not binding on Examination or Appeals and is not a final case determination. Such advice is advisory and does not resolve Service position on an issue or provide the basis for closing a case. The determination of the Service in the case is to be made through the exercise of the independent judgment of the office with jurisdiction over the case.

This is in response to your request for our advice in this case. The facts as we understand them are that in connection with the current audit of [REDACTED] for the years [REDACTED] - [REDACTED], the examination team deals primarily with three individuals: (1) [REDACTED], Vice President, Corporate Tax; (2) [REDACTED], Vice President and Senior Tax Counsel; and, (3) [REDACTED], Director Tax Audits. A number of businesses which are currently part of [REDACTED]'s consolidated tax return are being

sold to [REDACTED]. The sale is expected to be completed before the end of [REDACTED]. The next audit cycle plans to examine the years [REDACTED], [REDACTED], and [REDACTED]. [REDACTED], [REDACTED], and [REDACTED] will be [REDACTED] employees after the sale, and as such will continue as the contact people for the Internal Revenue Service in connection with the audit of the years [REDACTED], [REDACTED], and [REDACTED]. [REDACTED] would like them to serve the same role for [REDACTED].

Circular No. 230 sets forth the rules for practice before the Internal Revenue Service. As officers and/or full-time employees [REDACTED], [REDACTED], and [REDACTED] are allowed to represent [REDACTED] before the Internal Revenue Service. But since none of these individuals is employed by [REDACTED], we must look elsewhere for the authority to allow them to act as the contact points in the upcoming examination. In general, Power of Attorney and Declaration of Representation (Form 2848) is used by attorneys, certified public accountants, and enrolled agents to authorize them to represent taxpayers before the Internal Revenue Service. Therefore, [REDACTED] can use a Form 2848 to authorize [REDACTED] and [REDACTED] to act on its behalf. However, since [REDACTED] is not an attorney, certified public accountant, or an enrolled agent, the use of a Form 2848 is not appropriate.

It is clear that any person who has knowledge of the facts, or can give information which will assist in establishing the facts, can be used by the taxpayer to explain its books, records, or returns to the examining revenue agent. The examining revenue agent has not only the right, but also the duty, to receive information from anyone who has knowledge of the facts. However, without proper authorization, or the taxpayer's presence, the Internal Revenue Service cannot disclose confidential information. (See, Rev. Proc. 68-29, 1968-2 C.B. 913). We recommend that a Tax Information Authorization, (Form 8821), be used to empower [REDACTED] to receive confidential information. This form allows a taxpayer to authorize a designee to inspect and/or receive confidential tax information from the Internal Revenue Service. (See, IRM, Handbook No. 12(16)0, Power of Attorney and Related Authorizations, Handbook, Exhibit 100-1).

Once [REDACTED] properly executes powers of attorney (Form 2848) and/or tax information authorizations (Form 8821) for [REDACTED], and [REDACTED] they will be able to act as the contact persons for the Internal Revenue Service with respect to the examination for the [REDACTED] - [REDACTED] cycle.^{1/}

If you have any questions, please contact the attorney assigned to this case, Joseph F. Long, at (860) 290-4090.

BRADFORD A. JOHNSON
Associate Area Counsel

By: _____
JOSEPH F. LONG
Attorney

^{1/} It is our understanding that the role envisioned by [REDACTED] for [REDACTED], [REDACTED], and [REDACTED] is limited to transmitting and receiving information between the taxpayer and the I.R.S. If [REDACTED] and [REDACTED] will not be asked to receive refund checks, execute waivers of restriction on assessment, execute consents to extend the statute of limitations on collection or assessment, or execute a closing agreement, then [REDACTED] can also use a Tax Information Authorization (Form 8821) for them instead of a Power of Attorney (Form 2848).